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August 28, 2003

**EX PARTE**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> St. SW  
Washington, D.C. 20554

**Re: CC Docket 01-92**

Dear Ms. Dortch:

This is to notify you that on August 28, 2003 BellSouth met with Jared Carlson (WTB), Won Kim (WTB), Steve Morris (WCB) and Victoria Schlesinger (WCB), to discuss issues raised in the above docket relating to interconnection and intercarrier compensation between CMRS carriers and independent local exchange carriers. Representing BellSouth at these meeting were Randy Ham, Parkey Jordan and the undersigned. The attached presentation formed the basis for this discussion.

Pursuant to Commission rules, please include this notice and attachments in the record of the proceeding identified above.

Sincerely,



Glenn Reynolds

cc: Jared Carlson  
Won Kim  
Steve Morris  
Victoria Schlesinger

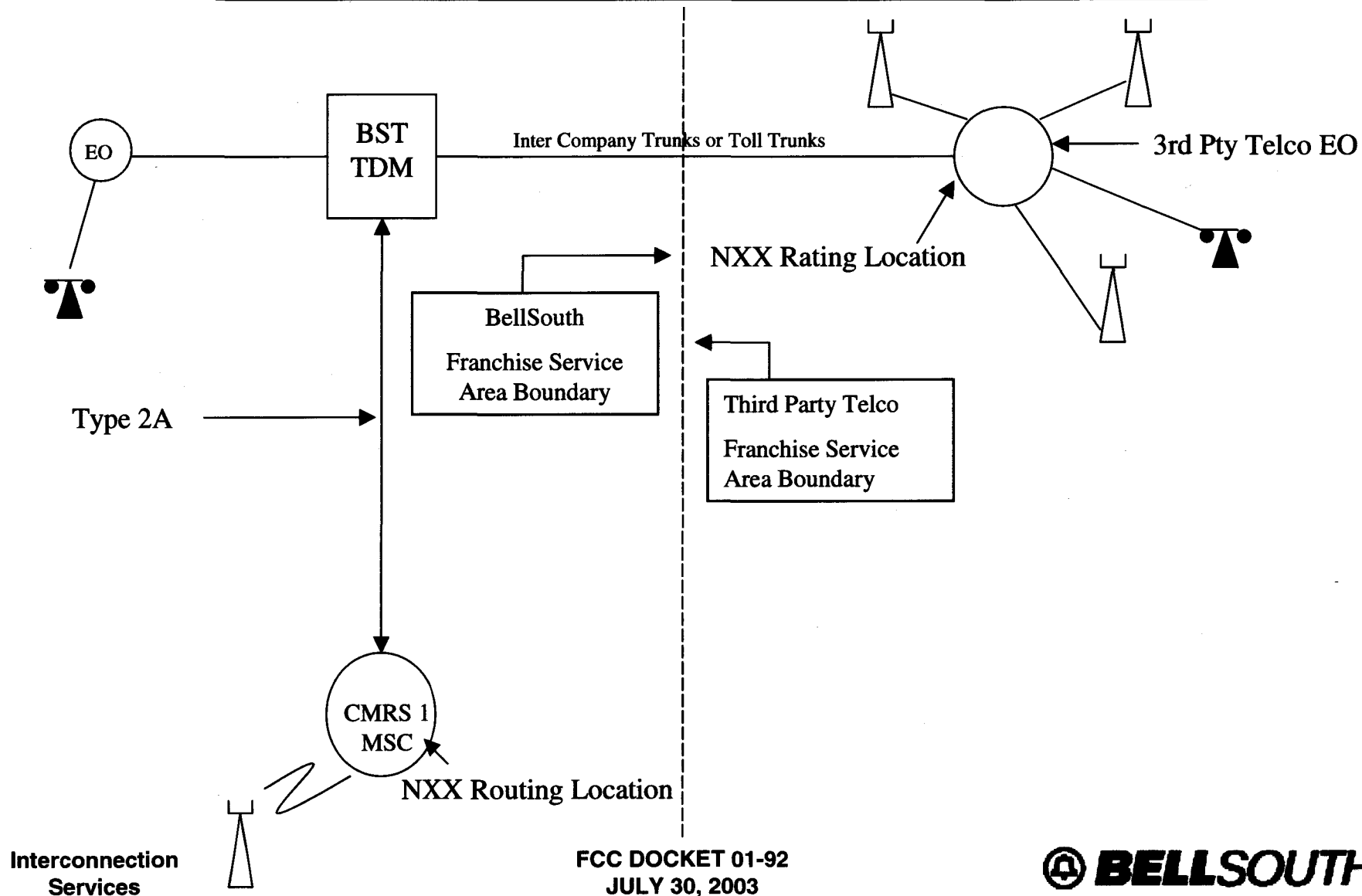
BELLSOUTH EX PARTE  
*AUGUST 28, 2003*

CMRS NPA/NXX ARRANGEMENTS  
WITH THIRD PARTY ILEC RATE CENTER





## NXX With 3<sup>rd</sup> Party Rate Center & Routing To BellSouth



FCC DOCKET 01-92  
JULY 30, 2003

 **BELLSOUTH**

# >> SPRINT PCS ISSUE

Sprint and other CMRS providers obtain NPA/NXX codes and instruct carriers to ROUTE calls to those numbers to a BellSouth tandem but to RATE those calls in the rate center of an Independent ILEC.

Assigning an NPA/NXX code to different routing and rating points within the same ILEC's service area is acceptable and is permitted by ILECs. Assigning differing routing and rating points in differing ILEC service areas exacerbates existing problems relating to transit traffic and intercarrier compensation.

BellSouth has complied with Sprint's requests to load NPA/NXX codes with routing and rating points in different ILEC territories, but seeks the Commission's guidance regarding whether codes should be loaded in this manner and if so, how affected parties are to address resulting intercarrier compensation issues.

## **>> CMRS CARRIERS SHOULD INTERCONNECT DIRECTLY WHERE THEY ARE MARKETING A LOCAL PRESENCE**

Sprint's intent in assigning a rating point in an independent ILEC's territory is to be able to maintain a local presence in the service area without establishing direct interconnection with the independent ILEC in the area where the local service is provided.

Allows end users of the independent ILEC to dial a local number to reach end users of Sprint

Assumes calls originating from and terminating to the particular NPA/NXX will be predominantly between the CMRS end user and the independent ILEC end user

Does not support Sprint's claim that "a large portion of the traffic at issue is traffic originating on the BellSouth network"

Sprint's claim that traffic volumes do not justify the cost of direct interconnection with the independent ILEC is inconsistent with its desire to establish a local presence in the independent ILEC's territory. Sprint is marketing its wireless service to residents of the independent ILEC's territory and intends to assign the telephone numbers to end users located in that territory.

## **>> APPLICABLE LAW**

Even where carriers choose to utilize indirect interconnection pursuant to Section 251(a) of the Act, nothing in the Act exempts interconnecting carriers from entering into negotiated interconnection agreements and paying each other for termination of local traffic.

By allowing CMRS providers to establish a local presence in a market merely by creative assignment of NPA/NXX codes, the Commission effectively eliminates the need or incentive for CMRS providers to request interconnection negotiations with independent ILECs. Chairman Powell expressed a similar policy concern in his concurring statement in the Matters of TSR Wireless, LLC, et al., FCC Docket No. 00-194 (released June 21, 2000).

# >> VA ARBITRATION ORDER

- Emphasized that there is no existing requirement for ILECs to provide transit service—let alone at TELRIC prices (§ 117)
- Also found that there is no existing rule requiring ILECs to serve as billing intermediaries between CLECs and 3<sup>rd</sup>-party carriers with which it exchanges traffic transiting the ILEC's network. (§ 119)
  - CLEC arguments based upon the same “efficiency” considerations raised by CMRS carriers in this proceeding. Bureau rejected these concluding: “We are not persuaded by WorldCom’s arguments that Verizon should incur the burdens of negotiating interconnection and compensation arrangements with third-party carriers. Indeed, we agree with Verizon that interconnection and reciprocal compensation are the duties of all local exchange carriers, including competitive entrants.”
- The duty to interconnect pursuant to Section 251(a) of the Act applies equally to all carriers, including CMRS providers. Granting transiting “rights” to CMRS carriers will be used by CLECs to claim entitlement to same relief.
- In any event, FCC may not create new obligations in this Declaratory Ruling proceeding—a rulemaking is required. The record is also completely void of any basis to create new requirements for transiting, including requirements for billing or traffic information.

# **>> BELLSOUTH SHOULD NOT BE FORCED TO BEAR CMRS CARRIERS' COSTS**

Sprint's assignment of routing points in BellSouth territory and rating points in an independent ILEC's territory in effect places on BellSouth an obligation to act as a transiting company.

BellSouth has no obligation pursuant to the Telecommunications Act of 1996 to provide transiting functions, but has agreed to do so for CMRS providers and CLECs in the interest of network and resource efficiency.

If Sprint and other carriers are permitted to force ILECs to load NPA/NXX codes as Sprint has requested, the ILEC owning the routing point tandem will necessarily be transiting calls that are clearly intended to be local to the ILEC owning the rating point. Thus, the majority of the traffic will be exchanged between Sprint and the independent ILEC, and it will all be routed through BellSouth's tandem, regardless of whether both originating and terminating carriers have established transit arrangements with BellSouth. This prevents BellSouth's ability to charge a reasonable rate for the use of its network, and in effect transfers the costs of competition from Sprint to BellSouth.



# >> **BELLSOUTH SHOULD NOT BE FORCED TO BEAR CMRS CARRIERS' COSTS**

Although Sprint and other wireless carriers intend that independent ILECs and CMRS end users who have been assigned these NPA/NXX codes will be exchanging calls on a local basis, the wireless carriers have made no effort, either before or after such codes become operational, to negotiate interconnection agreements with the independent ILECs, leaving the tandem provider in the middle of billing disputes regarding the traffic.

Because the wireless carriers and independent ILECs have not negotiated interconnection agreements to govern reciprocal compensation for the exchange of local traffic, independent ILECs look to BellSouth – the tandem provider – for payment, regardless of the fact that BellSouth did not originate the traffic.

## >> **TRANSITING ISSUE**

BellSouth agreed to provide a transiting function under the assumption that NPA/NXX codes would be both rated and routed within a single ILEC service area.

The assignment of a routing point in BellSouth's service area and a rating point in an independent ILEC's service area places BellSouth in the middle of disputes regarding intercarrier compensation that should be paid and collected between the originating and terminating carrier and not by BellSouth. As a transit provider, BellSouth should be paid for the use of its network in transiting traffic, and it should not be responsible to any other carrier for intercarrier compensation of any kind.

Most independent ILECs attempt to hold the transiting company responsible for such payments in even the most simple call flows where routing and rating points are not assigned in different locations. The assignment of routing and rating points as Sprint has requested will force the independent ILEC to treat the call as local and to use the tandem provider's network to transport the call, despite the fact that most independent ILECs have not entered into Agreements with BellSouth for BellSouth to provide transiting services to the independent ILEC.

# >> TRANSITING ISSUE

Transit traffic generally is a major disputed issue between BellSouth and independent ILECs. Independent ILECs believe BellSouth should be liable for payment to the independent ILECs for termination of traffic, at access rates, regardless of whether BellSouth originated the traffic.

To further complicate the issue, independent ILECs blame BellSouth for “allowing” routing and rating points to be assigned in different ILEC territories, thus forcing the independent ILECs to create and exchange local traffic with CMRS providers (rather than routing such calls through toll providers). Thus, the independent ILECs again look to BellSouth for payment.

# >> **RELIEF REQUESTED**

Regardless of the position the Commission takes with respect to whether it is appropriate for rating and routing points to be assigned in different ILEC service areas, the Commission should:

Clarify that a transiting company may charge market-based rates for the use of its network when performing a transit function for any originating carrier; and

Clarify that a transiting company is not responsible for payment of any intercarrier compensation to other involved carriers.

# >> RELIEF REQUESTED

If the Commission finds Sprint's proposed NPA/NXX assignments to be permissible, then in addition to clarifying the role of the transiting carrier, the Commission should:

Clarify that originating and terminating carriers who interconnect indirectly are not relieved of their statutory obligations to negotiate interconnection agreements for the exchange of local traffic; and

Develop rules governing how intercarrier compensation will be paid to the appropriate carriers if NPA/NXX codes are assigned to establish a local presence prior to the wireless provider and the independent ILEC entering into an interconnection agreement.

Develop rules governing (1) the obligation of the independent ILEC to utilize the services of the transiting ILEC at the determination of the carrier opting for indirect interconnection, and (2) the terms under which the independent ILEC will compensate the transiting ILEC prior to establishment of a transiting arrangement.